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Compilation of views on the elements of an arms trade treaty

Addendum[1]

Background document prepared by the Secretariat

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[1] This information was received after the submission of the main report.

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I. Information received from States

Guatemala

[Original: Spanish]
[30 March 2012]

Guatemala has been a strong promoter of a legally binding arms trade treaty and has co-sponsored and supported all General Assembly resolutions on the issue.

Guatemala believes that the 14 July 2011 report by Roberto García Moritán, Chair of the Preparatory Committee, constitutes a good basis for negotiations at the diplomatic conference in July 2012.

The proposed treaty must be a mechanism that considerably reduces the human cost of arms proliferation at the global level and that prevents arms providers from taking advantage of the weakest link in the legal arms trade to divert weapons to the black market, by establishing the responsibilities of each of the actors who play a role along that chain. The treaty must guarantee that all weapons exporters work under the same regulations.

In Central America, the code of conduct of the Organization of Central American States with respect to the transfer of arms, ammunition, explosives and other related material is in force and can serve as a useful tool for the negotiations, since it shares aspects of the issues that have been discussed for the future treaty. Because that code of conduct is not legally binding at present, a legally binding arms trade treaty at the global level would be of great assistance to Central America in combating the runaway proliferation of illegal weapons and their effect on armed violence in the region.

At the same time, the countries of the region have approved the two-pronged Central American Security Strategy, which seeks, on the one hand, to combat illegal arms trafficking and, on the other, to prevent armed violence.

Guatemala believes that the proposed treaty should be negotiated on a non-discriminatory, transparent and multilateral basis that establishes shared international standards for the import, export and transfer of conventional weapons. Moreover, Guatemala believes that the treaty has a greater likelihood of being implemented if the negotiations take into account the views, interests, needs, rights and obligations of all the actors in the legal arms trade.

Preamble

The preamble of the proposed treaty should refer to the fact that the lack of international regulation for the transfer of weapons contributes to armed violence.

Scope

The future treaty should cover all conventional weapons included in the United Nations Register of Conventional Arms (combat vehicles, armoured combat vehicles, large calibre artillery systems, fighter aircraft, attack helicopters, warships, missiles and missile-launchers), as well as small arms and light weapons and the parts or components of all weapons, including ammunition, man-portable air-defence systems and technology specifically designed for the manufacture of weapons and their components.

Guatemala believes that there should be no exceptions in any of the above categories, including, for example, sporting and hunting weapons, since certain weapons currently manufactured for the use of military and police forces could, with some modification, also be classified as sporting and hunting weapons.

In addition, in order to be effective, the treaty should cover all weapons transfers, including re-export, and should include the comprehensive regulation of intermediaries (registries, licences and transactions controls) in order to avoid the diversion of weapons to the illegal market. Moreover, it should establish the obligation to standardize export licenses and end-user certificates.

The treaty must also establish that the adoption of decisions regarding the authorization of transactions should remain under the purview of each State.

Criteria and parameters

Guatemala supports the criteria and parameters contained in the 14 July 2011 report of Roberto García Moritán. In particular, the treaty should contain criteria and parameters to prevent weapons transfers where there is a risk that they might be used to commit violations of international human rights and international humanitarian law or to support terrorist acts. Those and other criteria are part of the Guatemalan legal framework and are contained in the Arms and Ammunition Act, Decree 15-2009, of the National Congress.

Marking and tracing

In order to track and monitor arms throughout their entire life cycle, the treaty should include provisions on the marking of firearms as well as their components and ammunition at the time of their manufacture, of their import into a third country or upon their confiscation by the relevant authorities.

Implementation

In order to promote mutual trust and comprehensive implementation, the treaty must provide for a body that can assist States with its implementation and that will serve to monitor compliance.

In addition, the treaty should create a mechanism for information exchange among States in order to ensure transparency in its implementation, and it should include information regarding approvals and denials.

The treaty should also include an annual reporting mechanism in order to allow States to provide information on implementation. Such reports should be made available to other States as feedback on the implementation process.

Assistance and cooperation

The treaty should include provisions on international cooperation and assistance to States that require help with effective implementation.

Entry into force

In order to ensure that the treaty contributes effectively to the regulation of weapons transfers, it should enter into force upon the deposit of the thirtieth instrument of ratification or accession.

Work of the ministerial conference

Pursuant to General Assembly resolution 64/48 and to the rules of procedure adopted by the Preparatory Committee, the work of the forthcoming July 2012 conference should be conducted in an open and transparent manner, on the basis of consensus. Guatemala hopes that the rule of consensus will not be exercised during the conference as a right of veto in order to paralyse the adoption of the Treaty. In Guatemala's view, consensus should be an inclusive practice that allows the different positions of Member States to be heard; it should not become a tool that precludes the possibility of discussion, since that would alter the negotiating mandate of the conference.

Panama

[Original: Spanish]
[7 May 2012]

I. Preamble

The increase in the levels of violence — particularly armed violence — in our countries calls for immediate and effective measures on the part of Governments. The latter have been making significant political and institutional efforts to combat this scourge; this requires a comprehensive and unified solution and the participation of all sectors of society for violence is a problem in all sectors of society.

The Panamanian Government has signed a multitude of international instruments committing itself to take the necessary legislative measures in order to eradicate the transit of firearms and ammunition and to establish the necessary internal controls.

Clearly there is a need for an international instrument to regulate global trade in weapons, ammunition and related materials which can then be implemented at the national level.

II. Principles

General principles for its application:

Transparency, respect for the sovereignty of States Parties, good faith, complementarity, cooperation, reciprocity.

In addition, it must be based on the principles of prohibition, restriction, transience, revocability, justification and precision, universality, correspondence, individualization, non-transferability and non-circulation.

III. Goals and objectives

To establish an international legal regime to regulate possession, bearing, import activities, transport and trafficking of weapons and ammunition and related materials by individuals.

IV. Scope

It should apply to all Member States of the United Nations as regards marketing, possession and bearing of firearms, ammunition and related materials.

V. Criteria and parameters

The treaty should be rigorous and effective and to that end should cover:

- All types of weapons and ammunition
- All types of transfers
- Parameters concerning human rights and international humanitarian law
- Transparent and effective implementation criteria
- Provisions concerning international assistance and cooperation
- Its provisions should be binding on all States

VI. Implementation

The arms trade treaty will establish international rules to regulate the global trade in weapons, ammunition and related materials. Accordingly, all countries will be required to have a national system for licensing and monitoring international transfers of weapons.

The solution will not be the same for all countries. The system to be established in each country will depend both on the size and nature of its trade in weapons and on its system of government, technological infrastructure and legal system. Accordingly, the treaty will have to establish a practical guide which will serve as a frame of reference so that States can adopt an effective and functional national monitoring system.

VII. International cooperation and assistance

International cooperation and assistance are essential for the implementation of the treaty.

VIII. Final provisions

Nature: this treaty is binding on all States that are party thereto.

Operation: it will enter into force as soon as the requisite instruments of ratification have been deposited.

IX. Matters and activities to be covered by the treaty

All matters and activities involving firearms, ammunition and related materials.

X. Additional views

None.